

4 KAR 1:030. Rollovers and transfers to other plans.

RELATES TO: KRS 6.525, 6.515, 21.370, 21.460, 21.540, 26 U.S.C. 401(a)(31), 402(c), 403(a), (b), 408, 408A, and 457(b).

STATUTORY AUTHORITY: KRS 21.540

NECESSITY, FUNCTION, AND CONFORMITY: KRS 21.540(2) authorizes the board of trustees of the Judicial Form Retirement System to promulgate administrative regulations, with retroactive effect if required by federal law, to conform the Kentucky Judicial Retirement Plan and the Kentucky Legislators Retirement Plan with federal law and to meet the qualification requirements under 26 U.S.C. 401(a). This administrative regulation establishes what constitutes eligible rollover distributions, eligible retirement plans, distributions, distributees, and direct rollovers for purposes of compliance with 26 U.S.C. 401(a).

Section 1. Definition. "Plan" means the Kentucky Judicial Retirement Plan and the Kentucky Legislators Retirement Plan.

Section 2. Effective January 1, 1993, "eligible rollover distribution" shall include any distribution of all or any portion of the balance to the credit of the distributee, except:

(1) A distribution that is one (1) of a series of substantially equal periodic payments made at least annually:

(a) For the life or life expectancy of the distributee and the distributees beneficiary;

(b) For the joint lives or joint life expectancy of the distributee and the distributees beneficiary; or

(c) For a specified period of ten (10) years or more;

(2) Any distribution to the extent that the distribution shall be required pursuant to 26 U.S.C. 401(a)(9), except as provided in Section 3 of this administrative regulation;

(3) The portion of any distribution that is not includable in gross income; or

(4) Any other distribution that is reasonably expected to total less than \$200 during the year.

Section 3. (1) Effective January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income. This portion may be transferred:

(a) Only to:

1. An individual retirement account or annuity described in 26 U.S.C. 408(a) or (b);

2. A qualified defined contribution plan described in 26 U.S.C. 401(a);

3. On or after January 1, 2007, a qualified defined benefit plan described in 26 U.S.C. 401(a); or

4. An annuity contract described in 26 U.S.C. 403(b); and

(b) To an account or plan provided for in paragraphs (a)2. to 4. of this subsection that agrees to separately account for amounts so transferred, and earnings on those amounts, including separately accounting for the portion of the distribution:

1. That is includable in gross income; and

2. That is not so includable.

(2) Effective January 1, 1993, "eligible retirement plan" shall include any of the following that accepts the distributees eligible rollover distribution:

(a) An individual retirement account described in 26 U.S.C. 408(a);

(b) An individual retirement annuity described in 26 U.S.C. 408(b);

(c) An annuity plan described in 26 U.S.C. 403(a);

(d) A qualified trust described in 26 U.S.C. 401(a);

(e) Effective January 1, 2002, an annuity contract described in 26 U.S.C. 403(b);

(f) Effective January 1, 2002, a plan eligible under 26 U.S.C. 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the Plan; or

(g) Effective January 1, 2008, a Roth IRA described in 26 U.S.C. 408A.

(3)(a) To be considered a distributee, a person shall be:

1. A member; or

2. Effective July 1, 2010, a nonspouse beneficiary who is a designated beneficiary as defined by 26 U.S.C. 401(a)(9)(E).

a. A nonspouse beneficiary shall rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution; and

b. The account or annuity shall be treated as an "inherited" individual retirement account or annuity.

(b) "Direct rollover" shall include a payment by the plan to the eligible retirement plan specified by the distributee. (37 Ky.R. 875; eff. 12-3-2010.)